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REMARKS

Claims 1-28 are pending in the present application. In an office action dated December 1, 2003, all claims were rejected. Applicants cancel claims 2, 3, and 6-28, amend claims 1, 4, and 5, and add new claims 29-37, and traverse the rejections as follows:

Claim Objections

Claim 11 was objected to because a period after the word "facility" was missing. This claim has been canceled, rendering the rejection moot.

Rejection under 35 U.S.C. §112

Claim 24 was rejected under 35 U.S.C. §112, second paragraph for allegedly failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. This claim has been canceled, rendering the rejection moot.

Rejection under 35 U.S.C. §101

Claims 1-2, 7-10, 13, 15-19, 22, and 24 were rejected under 35 U.S.C. 101 because these claims allegedly are not within the technological arts and provide a concrete tangible result. It was further alleged that the claimed invention does not fall within the technological arts because no form of technology (a computer) is disclosed or claimed and further that the claimed invention (claim 1) is directed to nothing more than a human making mental computations and manually providing, determining, and communicating. All claims rejected under §101, except claim 1, have been canceled, rendering the rejection moot. Claim 1 has been amended to more clearly claim the invention, and the rejection is traversed with respect to claim 1, as amended.

Applicants do not believe §101 requires some form of technology for a method claim to contain statutory subject matter. 35 U.S.C. 101 defines statutory subject matter as "any new and useful *process*, machine, manufacture or composition of matter, or any new and useful improvement thereto." Applicants note that there are thousands upon thousands of issued method claims which do not involve the use of a computer or other technological device.

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Applicants further assert that mental steps, combined with a useful, concrete and tangible result, likewise meet the requirements of §101. The Supreme Court has specifically identified three categories of nonstatutory subject matter: laws of nature, natural phenomena, and abstract ideas. See *Diamond v. Diehr*, 450 U.S. at 175, 209 USPQ 1 (1981). However, when an abstract idea is reduced to a practical application, the abstract idea no longer stands alone if the practical application of the abstract idea produces a useful, concrete and tangible result. *In re Alappat.*, 31 USPQ 2d 1545, 1558 (Fed. Cir. 1994); *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998).

One useful, concrete, and tangible result in these claims is the transmission of a request for a third party to transport freight. This is not a mental step; it is an act. It is useful to communicate this information so that the carrier can attempt to have a third party transport the freight for them. This information is concrete and tangible, because the request is physically transmitted to another party, i.e., there is a *transmission of information* involved in this step, which Applicants believe to be a concrete and tangible result.

Rejections under 35 U.S.C. §102

Claims 24-27 were rejected under 35 U.S.C. §102 as being anticipated by Doyle (US Patent No. 6,073,007). Applicant has canceled these claims rendering the rejection moot.

Rejections under 35 U.S.C. §103

Claim 28 was rejected under 35 U.S.C. §103(a) as being unpatentable over Doyle (US Patent No. 6,073,007). Applicant has canceled this claims rendering the rejection moot.

Further Rejections under 35 U.S.C. §103

Claims 1-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Applicants' allegedly admitted prior art (page 1, line 10 through page 3, line 30) in view of Helms et al (US Patent No. 5,880,958). Claims 2, 3, and 6-28 have been canceled, rendering the rejection moot. Claims 1, 4, and 5 have been amended to more clearly define what Applicants believe to be their invention, and Applicants traverse the rejection as follows.

It was alleged that Applicants' alleged admitted prior art teaches all of the elements of Applicants' claims, except that it does not teach the step of communicating freight transportation status from the third party to the carrier control center. Helms, it was further

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alleged, discloses the receipt of status information about freight being transported, and that it would have been obvious to combine Applicants' alleged prior art with Helms to arrive at Applicants' claimed invention.

Applicants believe that claims 1, 4, and 5, as amended, as well as new claims 29-37, are non-obvious over Applicants' alleged admitted prior art (herein "AAAPA") in combination with Helms. Neither AAAPA nor Helms teaches "transmitting a request for a third party to transport the freight". AAAPA simply states that "...or hire a third party carrier to transport the goods." (Page 2, lines 23-24) Applicants assert that hiring a third party to transport goods is not the same as transmitting a request for a third party to transport goods. As such, Applicants believe that the rejection should be withdrawn.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

Dated: March 16, 2004

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